



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/077,592	02/15/2002	J. Rickley Dumm	021287 0272245	1556

7590

10/04/2004

Pillsbury Winthrop LLP
Intellectual Property Group
Suite 200
11682 El Camino Real
San Diego, CA 92130

EXAMINER

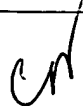
THANH, QUANG D

ART UNIT	PAPER NUMBER
----------	--------------

3764

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/077,592	Applicant(s) DUMM ET AL. 	
	Examiner Quang D. Thanh	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 February 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. New corrected drawings in compliance with 37 CFR 1.121(d) are required in this application because the outlines of all figures are not well defined. Applicant is advised to employ the services of a competent patent draftsman outside the Office, as the U.S. Patent and Trademark Office no longer prepares new drawings. The corrected drawings are required in reply to the Office action to avoid abandonment of the application. The requirement for corrected drawings will not be held in abeyance.
2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "cup holder", "fold-out table", and "a magazine rack" must be shown or the features canceled from the claims 8-10. No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement

Art Unit: 3764

Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1- 2 are rejected under 35 U.S.C. 102(e) as being anticipated by Perrego (Pub. No. US2002/0183675A1).

5. Re claims 1-2, Perrego discloses a back board apparatus 40 (fig. 9) to suspend a user in an upright position, comprising: a platform 41/42 with a top end and a bottom end (fig. 9); a strapwrap 35 physically coupled to the platform (fig. 8), to suspend the user against the platform; a foothold step 45 (fig. 9) attached toward the bottom end of the platform (p. 4, paragraph 42).

Art Unit: 3764

6. Claims 1-2 are rejected under 35 U.S.C. 102(b) as being anticipated by Grimaldi (4,194,500). Grimaldi discloses a back board apparatus 10 (fig. 1-2) to suspend a user in an upright position (fig. 2), comprising: a platform 20 with a top end and a bottom end (fig. 1); a strapwrap (harness 16, fig. 1-2) physically coupled to the platform to suspend the user against the platform; a foothold step 50/52 (fig. 1) attached toward the bottom end of the platform.

7. Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Megal (3,589,358). Megal discloses a back board apparatus (fig. 1) to suspend a user in an upright position (fig. 12), comprising: a platform 10/26 with a top end 10 and a bottom end 26 (fig. 2); a strapwrap (harness 56, fig. 1-2) physically coupled to the platform to suspend the user against the platform; a foothold step 55 (fig. 1) attached toward the bottom end of the platform; the foothold step being adjustable in height (col. 4, lines 19-30); a head rest 142 attached toward the top end of the platform (fig. 12); the head rest is adjustable in height (col. 6, lines 45-49).

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 3-7 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perrego in view of Angelo (4,838,250).

Art Unit: 3764

10. Re claims 3, Perrego discloses the claimed invention having all the features except for the foothold step being adjustable in height. However, Angelo teaches a back release apparatus having foot-rest members 32 that are adjustably secured to the frame 36 (fig. 1-2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Perrego's apparatus, such that the foothold step would being adjustable in height, as suggested by Angelo, for the purpose of allowing the apparatus to be quickly and easily adjusted to accommodate persons of different heights ad sizes (Angelo, col. 3, lines 45-47).

11. Re claims 4-6, Perrego discloses the apparatus further comprising a head rest 43 (fig. 9) is attached toward the top end of the platform; the head rest is adjustable in height (according to the abstract, since pad 43 can be adjusted to different locations along the frame structure depending the afflicted area along the spine, therefore pad 43 can also be adjusted to the cervical spine location if desired and thus it would serve as a head rest); and anti-skid runner coupled to the bottom end of the platform (anti-skid padding of each foot, best seen in fig. 9).

12. Re claim 7, Angelo discloses an arm rest 25 (fig. 2) coupled to the platform.

13. Re claims 12, Perrego discloses a rack 44 with a crossbar 48 configured to be coupled to the top end of the platform (fig. 9); and a bar 42 configured to be coupled to the platform on one end, and configured to be coupled to the crossbar (fig. 9).

14. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perrego/Angelo in view of Tomlinson (5,895,365). Perrego/Angelo disclose the claimed invention having all the features except for the arm rest comprising a cup holder, a fold-

Art Unit: 3764

out table, or a magazine rack. However, Tomlinson teaches a back rest apparatus having armrest 24/28 (fig1) that could provide a cup holder 26 (fig. 1), a fold-out tray 44 (fig, 5-6), or a pocket 42 (fig. 4) capable to store magazine. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Perrego/Angelo's apparatus, such that the arm rest would provide a cup holder, a fold-out table, or a magazine rack, as suggested by Tomlinson, for the purpose of allowing user while using the apparatus to be able to also enjoy drinking a beverage hold by the cup holder, or read a magazine supported on the tray, or put away a magazine in the pocket of the arm rest in a convenient way within an arm reach.

15. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perrego/Angelo in view of Courtney (2,658,754). The combined references disclose the claimed invention having all the features except for hinges for connecting the top end and the bottom end. However, Courtney teaches a foldable exercising and resting table having hinges 26 that couple the two foldable sections 11/12 together. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Perrego/Angelo's apparatus, to include hinges for connecting the top section and the bottom section of the platform, as suggested by Courtney, to allow the apparatus to be easily folded into compact package for the purpose of being stored away as in a closet or to enable it to be carried easily from place to place (col. 1, lines 1-7).

Art Unit: 3764

16. Claims 14-16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perrego/Angelo/Courtney in view of Aubin (309,678). The combined references discloses the claimed invention having all the features except for a hole is formed near the headrest at the top end. However, Aubin teaches a apparatus comprising a platform A that has an opening a and a pocket x (fig. 1) for supporting the back of the user's head (lines 49-53). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the apparatus, to include a hole is formed near the headrest at the top end, as suggested by Aubin, for the purpose of providing a support for the back of the user's head (lines 49-53). Perrego also discloses a fastener belt 37a-c with push-button buckle (fig. 8) configured to secure the strapwrap around the user (p. 5, paragraph 52); and depending the size of the patient, it would have been obvious to one of ordinary skill in the art to make the width of the strapwrap about six inches in order to adequately accommodate the user's chest/torso.

17. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perrego/Angelo/Courtney/Aubin in view of Steinbrueck (5,242,380). The combined references discloses the claimed invention having all the features except for two loop harnesses coupled to the top end configured to receive arms of the user. However, Steinbrueck teaches a orthopedic under-arm back harness that comprises two loop harnesses 24 configured to receive left and right arms of the user (fig. 1). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the apparatus, to include two loop harnesses, as suggested by

Art Unit: 3764

Steinbrueck, for the purpose of allowing the harness to support the body by gravity from an elevated support in a secured manner where the full weight of the body is borne by the harness (col. 1, lines 29-32) and thus providing a better support for the body during use.

18. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grimaldi in view of Angelo (4,838,250). Grimaldi discloses the claimed invention having all the features except for the foothold step being adjustable in height. However, Angelo teaches a back release apparatus having foot-rest members 32 that are adjustably secured to the frame 36 (fig. 1-2). Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Grimaldi's apparatus, such that the foothold step would being adjustable in height, as suggested by Angelo, for the purpose of allowing the apparatus to be quickly and easily adjusted to accommodate persons of different heights ad sizes (Angelo, col. 3, lines 45-47).

19. Claims 4-6, and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grimaldi/Angelo in view of Perrego. Grilmadi/Angelo disclose the claimed invention having all the features except for an adjustable headrest. However, Perrego teaches a traction apparatus comprising a head rest 43 (fig. 9) attached toward the top end of the platform, the head rest is adjustable in height, and since pad 43 can be adjusted to different locations along the frame structure depending the afflicted area along the spine, therefore pad 43 can also be adjusted to the cervical spine location if

Art Unit: 3764

desired and thus it would serve as a head rest. Therefore, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Grimaldi's apparatus, to include a headrest being adjustable in height, as suggested by Perrego, for the purpose of providing a headrest that can be quickly and easily adjusted to accommodate persons of different heights and sizes and thus allowing the user to be comfortable resting on the platform during use with the head being fully supported by the adjustable headrest. Re claim 6, Perrego teaches an anti-skid runner coupled to the bottom end of the platform (anti-skid padding of each foot, best seen in fig. 9). Re claim 11, Grimaldi also discloses a wedge runner 86 to support the platform against a wall (fig. 2, col. 3, lines 14-16).

20. Claims 6-7, and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Megal alone. Megal disclose the claimed invention having all the features except for an anti-skid runner coupled to the bottom end of the platform. However, it would have been obvious to one of ordinary skill in the art at the time of invention was made to modify the Megal's apparatus, to include an anti-skid runner coupled to the bottom end of the platform, for the purpose of frictionally opposing the shifting of the apparatus upon the floor when the apparatus is in use. Re claim 7, Megal discloses an arm rest 75 (fig. 12) coupled to the platform. Re claim 12, Megal discloses a rack (1st front leg 14) with a crossbar 30 configured to be coupled to the top end of the platform (fig. 2); and a bar (2nd leg 14) configured to be coupled to the platform on one end (at 26, fig. 2) and configured to be coupled to the crossbar 30 (fig. 2).

Art Unit: 3764

Conclusion

21. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chitwood '597 discloses a gravity traction device. Bart et al. '341 disclose a gravity lumbar reduction maintenance apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Quang D. Thanh whose telephone number is (703) 605-4354. The examiner can normally be reached on Monday-Thursday & alternate Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nick Lucchesi can be reached on (703) 308-2698. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306 for regular and After-Final communications.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Quang D. Thanh
Patent Examiner
Art Unit 3764
September 26, 2004




JUSTINE R. YU
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700

9/29/04